REMARKS

This Amendment is made in response to the final Office Action dated July 10, 2007. Claims 37-85 are pending in the present application. By this Amendment, claims 37, 44, 51, 52, 53, 62, 66, 77, 82, 83 and 84 have been amended to better define the presently claimed invention. Support for these amendments can be found at page 3, lines 19-20 of the specification. No new matter is being presented. Reconsideration of the pending claims is respectfully requested.

In the final Office Action, claim 57 was rejected for double patenting under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20 and 21 of U.S. Patent No. 6,827,734 in view of Palmaz (5,102,417). Additionally, claim 57 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,419,693 in view of Palmaz. Claim 57 was again rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 5,636,641 in view of Palmaz. Applicant hereby submits with this Amendment a Terminal Disclaimer to overcome these double patenting rejections.

In the final Office Action, claims 37-43 were rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Applicant respectfully traverses the § 112 rejection. Nevertheless, for clarity, the specification has been amended to more clearly recite that the balloon expandable stent can assume the first low profile delivery configuration through compression. Support for this statement

can be found at page 8, line 2 of the specification. As such, it is believed that the § 112, first paragraph rejection of claims 37-43 should be withdrawn.

In the outstanding January 2007 Office action, claims 37-49, 53, 56-61, 72-74, 78-80 and 83 were again rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,891,193 to Robinson et al. (the "Robinson patent") Claims 51 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Robinson patent in view of U.S. Patent No. 4,856,516 to Hillstead (the "Hillstead patent") or U.S. Patent No. 5,217,483 to Tower (the "Tower patent"). Claims 54, 62-71, 75, 76, 81, 82, 84 and 85 were rejected under § 102(e) as anticipated by the Robinson patent or in the alternative, under § 103(a) as obvious over the Robinson patent. Claims 55 and 77 were rejected under § 103(a) as being unpatentable over the Robinson patent in view of U.S. Patent No. 4,300,244 to Bokros (the "Borkos patent') Lastly, claim 50 was rejected under § 103(a) in view of the Robinson patent.

In rejecting claims 37-49, 53, 56-61, 72-74, 78-80 and 83 under § 102(e), the Examiner again stated that since the stent disclosed in the Robinson patent can be bent to form the stent, the stent is therefore plastically deformable and can be expanded to a state where there would be no bends in the wires forming the stent. Applicant again disagrees with the Examiner's position regarding the Robinson patent. However, in order to expedite allowance of the pending claims, all of the claims now include the recitation that the alloy forming the stent includes at least cobalt, chromium, and nickel and one metallic element selected from the group consisting of tungsten, iron and manganese. Applicant reserves the right to pursue the previously pending and similar claims in a related

application which may be filed at a later time. It is noted that the Robinson patent fails to disclose an alloy which includes either tungsten, iron or manganese. Thus, it is respectfully submitted that claims 37-49, 53, 56-61, 72-74, 78-80 and 83 are allowable over the cited Robinson patent.

For the same reasons, it is respectfully submitted that the rejection of claims 54, 62-71, 75, 76, 81, 82, 84 and 85 under § 102(e), or in the alternative under § 103(a), is traversed. The rejection of claim 50 under § 103(a) in view of the Robinson patent is also hereby traversed. The allowability of dependent claims 50, 54, 75, 76 and 81 has been addressed above as these claims have been shown to be allowable due to the recitations now found in these claims. Therefore, it is respectfully submitted that the Robinson patent neither anticipates nor renders obvious the subject matter of claims 50, 54, 62-71, 75, 76, 81, 82, 84 and 85.

It is also respectfully submitted that claims 51 and 52 as well as claims 55 and 77 are allowable over the combination of the Robinson patent and the Hillstead, Tower or Bokros patents. Again, the Robinson patent lacks the teaching of the use of an alloy including cobalt, chromium, and nickel and at least one metallic element selected from the group consisting of tungsten, iron and manganese. The Hillstead, Tower or Bokros patents also fail to teach the use of such an alloy as well. Thus, it is believed, that claims 51, 52, 55 and 77 are not obvious over the cited art for this reason as well.

In view of the foregoing, it is respectively urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney

can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The commissioner is authorized to charge any deficiencies in fees or credit any overpayments to our Deposit Account No. 06-2425.

Respectfully submitted,
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